Case File: A-89-17



City of Raleigh Department of City Planning One Exchange Plaza Raleigh, NC 27601 (919) 996-2626 www.raleighnc.gov

Case File: A-89-17

Property Address: 305 Forest Road

Property Owner: Richard and Tammy Cook

Project Contact: Tammy Cook

Nature of Case: A request for a 1.3' side yard setback variance to pursuant to Section

5.4.3.F.2.a.iv. of the Unified Development Ordinance to legalize an existing accessory garage as well as a 1.9' side yard setback variance and a Special Use Permit pursuant to Section 10.3.6.A.6. of the Unified Development Ordinance to expand it by less than 25% with a pergola addition that results in a 1.7' side yard setback for the existing structure and a 1.1' side yard setback for the proposed pergola extension on a .039 acre parcel zoned Residential-6 and Neighborhood

Conservation Overlay District located at 305 Forest Road. .



305 Forest Road - Location Map

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To BOA: 7-10-17

Staff Coordinator: Eric S. Hodge, AICP

ZONING DISTRICTS:

S: Residential-6 and Neighborhood Conservation Overlay District (Cameron Park)



305 Forest Road - Zoning Map

VARIANCE STANDARDS: In accordance with UDO <u>§10.2.10 Variance</u>, before a variance request is granted, the Board of Adjustment shall show all of the following:

- 1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
- 2. The hardship results from conditions that are peculiar to the property, such as location, size or topography. Hardships resulting from

personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.

- The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
- 4. The requested variance is consistent with the spirit, purpose and intent of the ordinance, such that public safety is secured and substantial justice is achieved.

SPECIAL USE PERMIT SHOWINGS:

In accordance with UDO §10.2.9 Special Use Permit, before a Special Use Permit request is granted, the Board of Adjustment shall show that all of the following are met:

- 1. The proposed use complies with all applicable provisions of this UDO unless otherwise expressly modified in accordance with this UDO;
- 2. The proposed use is allowed as a special use in the respective zoning district (see Chapter 6. Use Regulations);
- 3. The proposed use complies with any specific use standard listed in Chapter 6. Use Regulations without the granting of any variance to the specific use standard;
- 4. The proposed use is compatible with adjacent uses in terms of location, scale, site design, hours of operation and operating characteristics;
- 5. Any adverse impacts resulting from the proposed use in the affected area will be effectively mitigated or offset or the special use is denied;
- 6. Access with respect to pedestrian, bicycle and automotive safety, traffic flow and emergency service is adequate;
- 7. Signage is suitable and appropriate; and
- 8. Any appropriate dedications of streets and utilities to the public will be made prior to the issuance of a building permit.

Zoning District Standards: The subject property is zoned Residential-6 and Neighborhood Conservation Overlay District (Cameron Park)

,000 SF
0
5'
0;'

R-6: Yard Type	Minimum Setback	
Primary Street	10'	
Side Street	10'	
Side	5'	
Sum of Sides	15'	
Rear	20'	

Cameron Park Neighborhood

a. Core Area

- i. Maximum lot size: 21,779 square feet.
- ii. Front yard setback: Within 10% of the average front yard setback of houses on the same block face. No portion of any garage or carport shall protrude beyond the primary facade of the principal structure. Covered porches shall be considered part of the primary facade. For corner lots with driveway access from the secondary side, attached garage entrances must be set back at least 10 feet from the secondary side building elevation. A secondary side elevation is the alternative side of a corner lot house that faces a roadway, but does not include a primary entrance to the house.
- iii. Side yard setback: Within 5 feet of the average side yard setback and corner side yard setback of other properties on the block face, but no less than 5 feet.
- iv. Setback for accessory structures: Side and rear yard setbacks for accessory structures, including those greater than 150 square feet shall be a minimum of 3 feet.
- v. Maximum building height:30 feet with the exception of those lots fronting on Park Drive between Oberlin Road and Forest Road (except the lots fronting the south side of Park Drive, between Oberlin Road and Groveland Avenue), all lots fronting on West Johnson Street and on the south side of Peace Street, and the 3 lots fronting the south side and the 4 lots fronting the north side of Park Drive immediately west of St. Mary's Street (Wake County Registry: DB 08350, PG 1823; DB 02660, PG O-E-; DB 11659, PG 1800; DB 02425, PG 0670; DB 12811, PG 0908; DB 07129, PG 0713; DB 09060, PG 1175), which shall be limited to a maximum building height of 26 feet.

Staff note: TC-5-17, scheduled for Public Hearing on 3-7-17 proposes to increase these heights by 8'.

- vi. Building placement and building entrance: The orientation of the building and entry level of the main entrance to the building shall be located in a manner that is the same as the majority of the buildings on the block face.
- vii. Vehicular surface areas: New driveways onto public streets shall not be allowed for lots adjacent to alleys. Within that portion of the front yard area (as measured perpendicular to the right-of-way), between the principal building and the public street, new vehicular surface area shall not be permitted except where there are no adjacent alleys and when driveways are constructed alongside the house in the shortest practical distance from the right-of-way to the rear of the building. Parking areas and any other vehicular surface area installed prior to the August 3, 2010 shall not be deemed a zoning nonconformity.

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No vehicular entrance to a garage attached to the principal structure shall face the front yard. Maximum driveway width shall be limited to 12 feet for single driveways and 20 feet for shared driveways.

b. Transition Area B

i. Maximum building height: 40 feet when located within 75 feet of an adjacent Core Area

CHAPTER 10. ADMINISTRATION | Article 10.3. Nonconformities Sec. 10.3.1 in General

Article 10.3. Nonconformities

Sec. 10.3.1. In General

A. Public Safety

Repairs required for public safety because of unsafe conditions or by either the Housing Code or North Carolina State Building Code may be made in any amount unless the repairs are caused by a casualty, in which case the provisions of Sec. 20.3.2.6. or Sec. 20.3.3.6. shall apply in lieu of this provision.

Reservation of Authority

B.

Notwithstanding the policies and provisions of this Article with respect to nonconformities, the City expressly reserves its authority to initiate criminal and civil proceedings against unlawful uses, buildings, structures and lots, including those which unlawfully existed here before and to control or abate noxious uses, to require the repair or demolition of unsafe buildings or structures or to control or eliminate public health nuisances through the exercise of any powers authorized by the City Code and the North Carolina General Statutes.

Right-of-Way Acquisition

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Public acquisition of right-of-way shall not render a property nonconforming.

Sec. 10.3.2. Nonconforming Uses

A. Authority to Continue

- 3. Subject to the provisions of this Article or any amortization provision, any lawfully existing nonconforming use may continue in operation on the same land area and on the same floor area of the structure that was occupied by the nonconforming use on the date the use first became a nonconforming use. The continuation of a nonconforming use shall not be constructed to permit an increase in the number of dwelling units or a reduction of land area to the number of dwelling units.
- Subject to the provisions of this Article or any amortization provision, any lawfully existing nonconforming structure may continue to occupy the same land area within the existing configuration and size of the structure which existed on the date the structure first became a nonconforming structure.

B. Ordinary Repair and Maintenance

Normal maintenance and incidental repair or replacement, installation or relocation of non-bearing walls or non-bearing partitions, adding facilities to improve handicapped accessibility, painting, energy conservation, fencing and landscaping, wiring or plumbing, may be performed on any structure that is devoted in whole or in part to a nonconforming use; provided, however, that this paragraph shall not be deemed to authorize any violation of Sec. 20.3.2.C. through Sec. 20.3.2.G. Expenditures in any amount may be to either bring the nonconformity into full compliance with this UDO or to amortize the nonconformity.

C. Extensions

A nonconforming use shall not be extended, expanded, enlarged or increased in intensity, unless a special use permit is issued by the Board of Adjustment for such extension or expansion. Such prohibited activity shall include, without being limited to:

- Extension of the use to any structure or land area other than that occupied
 by the nonconforming use on September 1, 2013, or any amendment to this
 UDO that causes a use of the property to become otherwise nonconforming
- Extension of the use within a building or other structure to any portion of the floor area that was not occupied by the nonconforming use on September 1, 2013, or when an amendment to this UDO causes the use to become otherwise nonconforming.
- Operation of the nonconforming use in such a manner as to conflict with this UDO, or to further conflict with this UDO, if already conflicting as of September 3, 2013, or any a mendments to this UDO is applied to the property, any use limitations established for the district in which the use is located.
- New construction, reconstruction or structural alteration except those described as ordinary repair and maintenance in Sec. 20, 3.2.8. above.
- Extensions of the use to any new construction, enlargement or additions
 other than that occupied by the nonconforming use on September 1, 2013,
 or any amendment to this UDO that causes a use of the property to become
 otherwise nonconforming.

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D. Relocation

other tract or lot unless the entire structure and the use of the structure shall No structure that is devoted in whole or in part to a nonconforming use shall conform to all the regulations of the district to which the structure and use be relocated in whole or in part to any other location on the same or any are relocated.

eminent domain riot, fire, accident explosion, flood, lightning, wind or other

calamity or natural cause to the extent of 50% or less of the replacement

In the event that a conforming structure that is devoted in whole or in part

to a nonconforming use is damaged or partially destroyed, by exercise of

and use are located or unless a special use permit is issued by the Board of

Adjustment for such restoration.

cost of the structure immediately prior to such damage, such structure may be repaired and reconstructed and used for the same purposes and degree reconstruction is commenced with a valid building permit within 12 months

of the date of such damage or destruction.

as it was before the damage or destruction, provided that such repair or

destruction is more than 80% of its replacement cost immediately prior

a. No renovation, maintenance or repair shall be made if the damage or

If a nonconforming use is located within an Airport Overlay District, the

following shall apply:

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to such damage, unless the nonconformity is brought into compliance

with this UDO; or

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restoration and the restoration does not create a greater hazard to

navigation than the previously existing nonconformity.

Replacement cost shall be determined by either:

A special use permit is issued by the Board of Adjustment for such

other location on the same or any other lot unless such use conforms to all No nonconforming use of land shall be relocated in whole or in part to any the regulations of the district to which the use of land is relocated.

Change in Use ш

shall only be used thereafter for a use permitted in the zoning district in which it is located. When a nonconforming use has been changed to a permitted use, it is located. For purposes of this paragraph, a use shall be deemed to have been other than a use permitted in the zoning district in which the land or structure A nonconforming use of land or of a structure shall not be changed to any use changed when an existing nonconforming use has been terminated and the permitted use has commenced and continued for a period of 7 days.

Abandonment or Discontinuance

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- When a nonconforming use of land or a nonconforming use of part or all consecutive days or more, the use shall not be reestablished or resumed. of a structure is discontinued, vacated or abandoned for a period of 365
- Operation of any nonconforming use without a license or permit required of the owner or operator, for 365 consecutive days, shall constitute a termination of the nonconforming use.

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b. The most recent tax value for building as reported in the county tax office

The median value based Square Foot Costs established by the most

recentedition of Building Construction Cost Data published by R.S.

Means; or

where the property is located. The property owner shall decide which of

the 2 methods for determining replacement cost is to be used The percent of damage shall be calculated by using the selected the selected replacement value of the damaged portion of the structure as the numerator. The same method used to determine replacement value for

the denominator must be used.

replacement value of the entire structure as the denominator and by using

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any subsequent use or occupancy of land or structure shall comply with the regulations of the zoning district in which the land or structure is located. Following the abandonment or discontinuation of a nonconforming use, ė

G. Damage or Destruction

 In the event that a conforming structure that is devoted in whole or in part to to such damage, such structure shall not be restored unless the structure and of more than 50% of the replacement cost of the structure immediately prior a nonconforming use is damaged or destroyed, by any means, to the extent the use will conform to all regulations of the district in which the structure

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Sec. 10.3.6. Special Use Permits for Nonconformities

A. Special Use Permit Required

All special use permits authorized in this section shall be processed, noticed and heard in accordance with Sec. 20.2.9. After the issuance of a special use permit by the Board of Adjustment in accordance with Sec. 20.3.6.B, one or more of the following activities can be made to a zoning nonconformity.

- Repair and maintenance work not authorized by either Sec. 103.2.B. or Sec. 103.3.C.
- Fixing and replacing damage and destruction authorized by Sec. 10.3.2.6.1, and Sec. 10.3.2.6.3, and by Sec. 10.3.3.6.1 and Sec. 10.3.3.6.3.6.
- The expansion, extension or alteration of a nonconforming use or vehicular surfaces serving a nonconforming use (including nonconforming principal use parking facilities) when all of the following are met:
- . The expansion, extension or alteration complies with all requirements of this UDO including but not limited to: height, bulk, setback, off-street parking, impervious surface coverage and access.
- b. The expansion, of a nonconforming use does not, singularly or collectively, exceed 25% of the total gross area occupied by the original nonconforming use. If the original nonconforming use occupied a portion of a building and that building has not been enlarged since the establishment of the nonconformity, that original nonconforming use may be extended beyond 25% within the interior portions of the building.
- The change of an existing nonconforming use to another nonconforming use provided that all of the following are met:
- The use will have no greater adverse effect on the surrounding property in terms of automobile or truck traffic, on-street parking, noise, stormwater, vibration and hours of nighttime operation than the existing use.
- b. Any change to a limited use or special use complies with applicable requirements of Chapter 6. Use Regulations.
- The proposed substitute nonconforming use is allowed in the zoning district of the highest classification in which the existing nonconforming

use would be a conforming use. The determination of the classification of the use shall be based on Planning and Development Officer.

- d. Once a nonconforming use is changed to a higher classification, it
 may not thereafter be changed to a nonconforming use of a lower
 classification, including a change back to the original nonconforming use.
- e. The substitution of a nonconforming impervious surface for another, the replacement of a substandard nonconforming manufactured home and the change of use of a nonconforming use to a conforming use may all be done without a special use permit from the Board of Adjustment if the applicable provisions of Sec. 20.3.4.E., Sec 20.3.3.H., Sec. 20.3.3.C.z. and Sec. 20.3.2.B. are met.
- The relocation onto its same premise of either a nonconformity or a
 nonconforming private access point, is allowed; provided the relocation
 reduces the extent of the nonconformity and more closely conforms to the
 standards contained in this UDO.
 The enlargement or alteration of any nonconforming structure used for a
 conforming use that creates an additional nonconformity or increases the
 degree of the existing nonconformity is allowed provided the enlargement
 or alteration of all or any part of such structure, does not exceed, singularly
 or collectively, 25% of the floor area gross of the original nonconforming
 structure, and the enlargement or alteration complies with all other
 requirements and regulations of this UDO.

B. Showings for Granting Special Use Permit for Nonconformities

- Before a request for the special use permit is granted, the Board of Adjustment must show that all of the following are met:
- a. The applicable standards of this section have been met;
- b. All of the showings of Sec. 20.2.9.E. have been met; and
- The requested repair, reconstruction, expansion, change of use to
 a different nonconforming use or relocation will not be injurious to
 property or improvements in the affected area.
- In acting upon a petition for a special use permit, the Board cannot order the discontinuance or termination of the nonconformity.
 - If a special use petition is denied, the continuation of the nonconformity and the activities allowed in Sec. 20.3.2. and Sec. 20.3.3. without a special

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CHAPTER 10. ADMINISTRATION | Article 10.3. Nonconformities Sec. 10.3.6. Spedal Use Permits for Nonconformities

use permit is still allowed unless otherwise prohibited by law. This policy is adopted to encourage the owners of nonconformities to apply for special use permits to improve and bring into conformance to the extent possible their property.

Application for Variance





Department of City Planning | 1 Exchange Plaza, Suite 300 | Raleigh, NC 27601 | 919-996-2626

Submit application to: Development Services Customer Service Center, 1 Exchange Plaza, Suite 400, Raleigh, NC 27601

NATURE OF REQUEST	OFFICE USE ONLY
Nature of variance request (if more space is needed, submit addendum on separate sheet): Request for 1.7' Side yard setback variance per UDO section 6.4.3.F.2.q.iv to legalize existing accessory garage, as well as al'side yard setback variance to provide shading to garage that does not exceed 2590 of the total gross area + does not exceed the overhang of existing	Transaction Number
Provide all previous transaction numbers for Coordinated Team Reviews, Due Diligence Garage Sessions, or Pre-Submittal Conferences. If this property was the subject of a previous variance request, provide the case number. **Revious VarianceCase** A-11-15**	

GENERAL INFORMATION		
Property Address 305 Forest Rd., Raleigh,	NC 27605	Date 6-6-2017
Property PIN 1704 117 686	Current Zoning R-6, (a	meron Park NCOD
Nearest Intersection Fovest Rd & Ambleside	Dr.	Property size (in acres)
Property Owner Richard & Tammy Cook	Phone 919-272-6854	Fax 99-747-4269
Owner's Mailing Address 305 Fovest Rd. Rale iah NC 27605	Email Holackard	gmail.com
Project Contact Person Tammy Cook	Phone 919-272-6854	Fax 919-747-4269
Contact Person's Mailing Address 305 Forest Rd. Raseigh, NK 27605	Email + blackard @	gmail.com
Property Owner Signature fammy Hackel Cook	Email richard.cook@ Holackard@	Kimley-hornican gmail.com
Notary /	Notary Signature and Seal	U
Sworn and subscribed before me this <u>6th</u> day of	Mounda S. 2	h.
June , 20_17 by Richard Cook and Tammy Cook	Marinda S. Zeni, Notary Pu My Commission Expires 09	
	950 P	TOUBLIC SOME

Special Use Permit Application

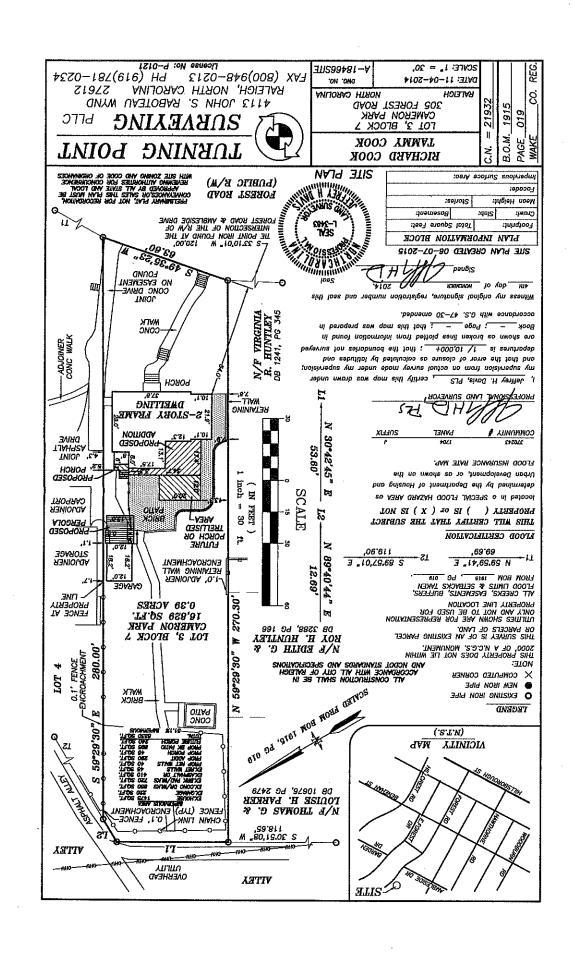


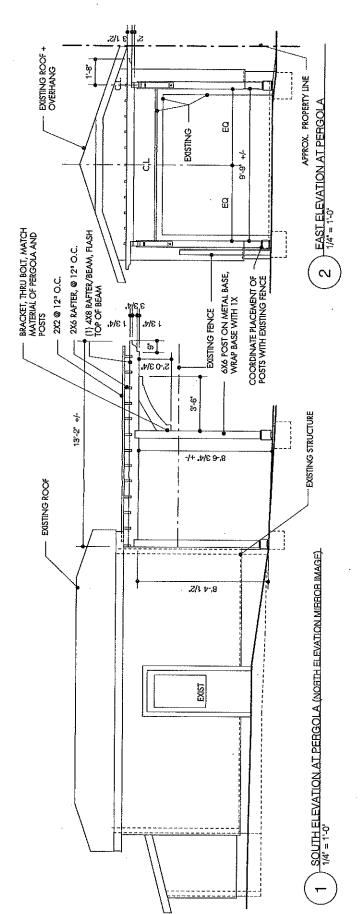
Department of City Planning | 1 Exchange Plaza, Suite 300 | Raleigh, NC 27601 | 919-996-2626

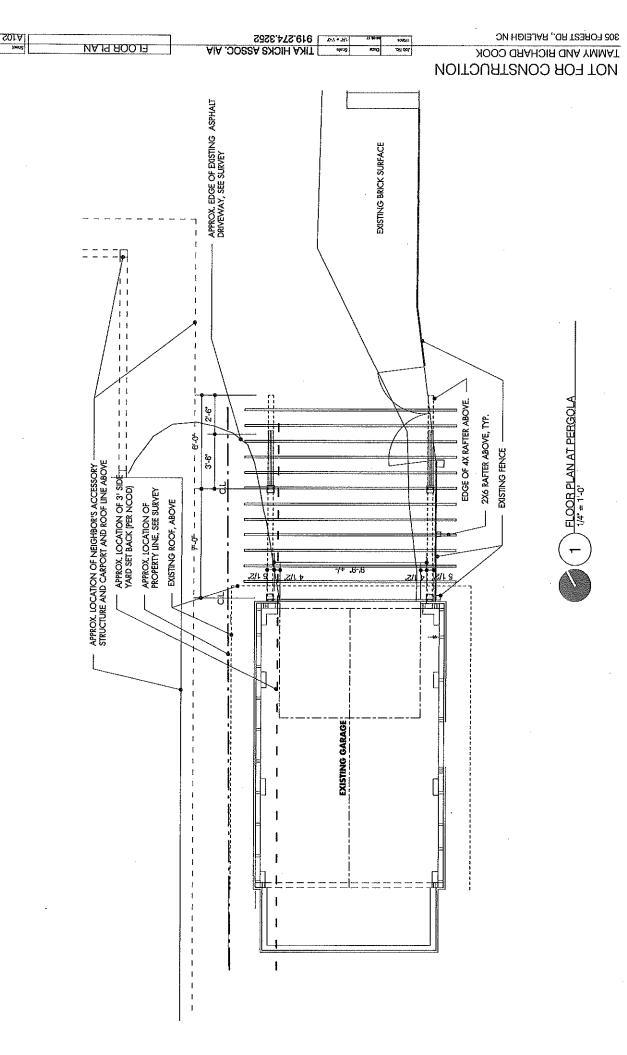
Nature of request (Submit addendum on separate sheet, if more space is needed.)	OFFICE USE ONLY
Request for 1.7' side yard setback variance per U.D.O. Section 5.4.3.F.2.a.iv to legalize existing accessory garage, as well as a 1' side yard setback variance and Special Use Permit per U.D.O. Section 10.3.6.A.6 to provide shading for existing accessory garage and that does not exceed the overhang on the existing structure and does not exceed 25% of total gross area.	Transaction Number
Provide all previous transaction numbers for Coordinated Team Reviews, Due Diligence Sessions or Pre-Submittal Conferences. If this property was the subject of a previous special use permit request, provide the case number.	

GENERAL INFO	RMATION	
Property Address 305 Forest Rd., Raleigh,	NC 27605	Date 6.6.2017
Property PIN 1704117686	Current Zoning R-6, C	ameron Park NCOD
Nearest Intersection Forest Rd & Ambleside Dr.	Property size (in acres)	039 acres
Property Owner Richard and Tammy Cook	Phone 919-272-6854	Fax 919-747-4269
Owner's Mailing Address 305 Forest Rd., Rale	igh, NC 27605	
Email tblackard@gmail.com, richard.co	ook@kimley-hor	n.com
Project Contact Person Tammy Cook	Phone 919-272-6854	Fax 919-747-4269
Contact's Mailing Address 305 Forest Rd., Ralei	gh, NC 27605	
Email tblackard@gmail.com		
Property Owner Signature Device 2	Mill Co	B
Notary Sworn and subscribed before me this <u>9</u> day of	Notary Signature and Se	Commission

It is improper to contact any member of the Board of Adjustment prior to the disposition of a case to discuss the request. A Special Use Permit Application will not be considered complete until all required submittal components listed on the Special Use Permit Checklist have been received and approved.







1704117686 COOK, RICHARD N COOK, TAMMY B 305 FOREST RD RALEIGH NC 27605-1759

1704115619 DONAHUE, KEITH P J NELSON, MEREDITH A 1618 AMBLESIDE DR 1704115687 DONAHUE, KEITH P J NELSON, MEREDITH A 1618 AMBLESIDE DR RALEIGH NC 27605-1623

1704115852 HITE, KATHERINE D DICKINSON, ROBERT 302 HAWTHORNE RD RALEIGH NC 27605-1637 1704116642 PARKER, THOMAS G PARKER, LOUISE H 1614 AMBLESIDE DR RALEIGH NO 27605-1623 1704116690 HUNTLEY, EDITH G HUNTLEY, ROY H 1610 AMBLESIDE DR RALEIGH NC 27605-1623

1704116843 MARTIN, HERBERT W JR MARTIN, MARGARET H 1623 PARK DR RALEIGH NC 27605-1608 1704117585 HUNTLEY, VIRGINIA R 303 FOREST RD RALEIGH NC 27605-1759

RALEIGH NC 27605-1623

1704117803 DENEEF, A LEIGH BAINES, BARBARA J 1621 PARK DR RALEIGH NC 27605-1608

1704117863 WILKINSON, RICHARD R WILKINSON, JANET L 1619 PARK DR RALEIGH NC 27605-1608 1704118668 WOODS, TIMOTHY KERDASH BOWERS, ROSS WALTER 309 FOREST RD RALEIGH NC 27605-1759 1704118823 ELAM, BONNIE Y 1611 PARK DR RALEIGH NC 27605-1608

1704118892 ADAMS, BETTY HEIRS ADAMS, J ALLEN 1609 PARK DR RALEIGH NC 27605-1608 1704119571 RALEIGH CITY OF PO BOX 590 RALEIGH NC 27602-0590 1704119751 GILBERT, JOHN HENDERSON GILBERT, SUSAN H 311 FOREST RD RALEIGH NC 27605-1759